

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 314**

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**Introduced by Senator Vargas**

February 14, 2011

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An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 314, as amended, Vargas. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel or their dependents, or both, if the housing units and the private contractor constructing the housing meet specified criteria. One of these criteria requires any reduction or, if the amount of ~~reduction~~ *reduction* is unknown, the private contractor's reasonable estimate of savings, in property taxes on leased property used for military housing, as defined, inures solely to the benefit of the residents of the military housing through improvements.

Existing property tax law provides for escape assessments to be made within 4 years after July 1 of the assessment year in which the property escaped taxation or was under assessed.

This bill would authorize the county assessor, if the military requires the property tax savings described above to be held in a reserve account for *specified* use ~~in future project construction~~, to levy an escape assessment within 4 years after July 1 of the assessment year in which the property tax savings are withdrawn from the reserve account.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 107.4 of the Revenue and Taxation Code  
2     is amended to read:  
3     107.4. (a) For purposes of paragraph (1) of subdivision (a) of  
4     Section 107, there is no independent possession or use of land or  
5     improvements if that possession or use is pursuant to a contract  
6     that includes, but is not limited to, a long-term lease, for the private  
7     construction, renovation, rehabilitation, replacement, management,  
8     or maintenance of housing for active duty military personnel or  
9     their dependents, or both, if all of the following criteria are met:  
10    (1) The military housing constructed and managed by private  
11    contractor is situated on a military facility under military control,  
12    and the construction of that housing is performed under military  
13    guidelines in the same manner as construction that is performed  
14    by the military.  
15    (2) All services normally provided by a municipality are required  
16    to be purchased from the military facility or from a provider  
17    designated by the military.  
18    (3) The private contractor is not given the right and ability to  
19    exercise any significant authority and control over the management  
20    or operation of the military housing, separate and apart from the  
21    rules and regulations of the military.  
22    (4) The number of units, the number of bedrooms per unit, and  
23    the unit mix are set by the military, and may not be changed by  
24    the contractor without prior approval by the military.  
25    (5) Tenants are designated by a military housing agency.  
26    (6) Financing for the project is subject to the approval of the  
27    military in its sole discretion.

1 (7) Rents charged to military personnel or their dependents are  
2 set by the military.

3 (8) The military controls the distribution of revenues from the  
4 project to the private contractor, and the private contractor is  
5 allowed only a predetermined profit or fee for constructing the  
6 military housing.

7 (9) Evictions from the housing units are subject to the military  
8 justice system.

9 (10) The military prescribes rules and regulations governing  
10 the use and occupancy of the property.

11 (11) The military has the authority to remove or bar persons  
12 from the property.

13 (12) The military may impose access restrictions on the  
14 contractor and its tenants.

15 (13) (A) Any reduction or, if that amount is unknown, the  
16 private contractor's reasonable estimate of savings, in property  
17 taxes on leased property used for military housing under the  
18 Military Housing Privatization Initiative (10 U.S.C. Sec. 2871 et  
19 seq.) shall inure solely to the benefit of the residents of the military  
20 housing through improvements, such as a child care center provided  
21 by the private contractor.

22 (B) Notwithstanding Section 532, if the military, in writing or  
23 by contract, requires the property tax savings to be held in a reserve  
24 account for use ~~in future project construction~~, *as provided by*  
25 *subparagraph (A)*, the county assessor may levy an escape  
26 assessment within four years after July 1 of the assessment year  
27 in which the property tax savings are withdrawn from the reserve  
28 account.

29 (14) The military housing is constructed, renovated,  
30 rehabilitated, remodeled, replaced, or managed under the Military  
31 Housing Privatization Initiative, or any successor to that law.

32 (b) This section shall not apply to a military housing unit  
33 managed by a private contractor that is rented to a tenant who is  
34 an unaffiliated member of the general public.

35 (1) "Unaffiliated member of the general public" means a person  
36 who is not a current member of the military. A housing unit rented  
37 to or occupied by a person employed as management or  
38 maintenance personnel for the military housing property shall not  
39 be considered to be a unit rented to an unaffiliated member of the  
40 general public.

- 1     (2) The private contractor shall annually notify the assessor by  
2     February 15 of any housing units rented to unaffiliated members  
3     of the general public as of the immediately preceding lien date.  
4     The private contractor shall be responsible for any property taxes  
5     on housing units rented to unaffiliated members of the general  
6     public.  
7     (c) For purposes of this section, “military facility under military  
8     control” means a military base that restricts public access to the  
9     military base.